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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,607	01/14/2002	Andrew C. Gilbert	01-1034 CF734	5741
63710 7590 02/16/2011 INNOVATION DIVISION CANTOR FITZGERALD, L.P. 110 EAST 59TH STREET (6TH FLOOR) NEW YORK, NY 10022				
EXAMINER TINKLER, MURIEL S				
ART UNIT		PAPER NUMBER		
3691				
MAIL DATE		DELIVERY MODE		
02/16/2011		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/047,607

Applicant(s)

GILBERT ET AL.

Examiner

MURIEL TINKLER

Art Unit

3691

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This application has been reviewed. Claims 1-41 are pending. The rejection(s) are as follows.

Response to Amendment

1. The amendments have been reviewed against the specification and accepted for examination.

Response to Arguments

2. Applicant's arguments with respect to claims 6, 7, 14, 15 and 17-41 have been considered but are moot in view of the new ground(s) of rejection. The Examiner now points to the particular parts of claims 6 and 14 that are not supported by the specification. See the 35 USC 112, first paragraph rejection below.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-7, 9-15 and 17-41 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably

convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

5. Claims 6 and 14 disclose the limitation: "electronically determining the presentation of the first and second passive orders to a prospective aggressor counterparty, a difference between the determined presentation of the two passive orders to the prospective aggressor counterparty indicating to the prospective aggressor counterparty the respective principal and broker authorities of the two respective passive orders." The Examiner has read through the specification again and could not find any indication of any "determination" function for presenting the first and second passive orders to a prospective counterparty. It is unclear if this "determination" changes the way the passive orders "normally" appear and it is also unclear what the purpose is for determining the presentation of the first and second passive orders. Dependent claims 1-5, 7, 9-15 and 17-41 do not cure this deficiency and are therefore also rejected.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 6, 7, 14, 15 and 17-41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. Claims 6 and 14 recite the following limitation: "electronically determining the presentation of the first and second passive orders to a prospective aggressor

counterparty, a difference between the determined presentation of the two passive orders to the prospective aggressor counterparty indicating to the prospective aggressor counterparty the respective principal and broker authorities of the two respective passive orders." The separator (";") within this limitation renders it somewhat confusing. More specifically, the phrase that starts with "a difference between the determined presentation of the two passive orders..." does not have a connector phrase/word to the first part of the limitation. This lack of connector phrase renders the second part of the limitation confusing. Without the connector phrase within the limitation, the second part of the phrase can be interpreted several ways, here are a few: "presentation" of the orders shows the aggressor who is the principal and broker—in other words, the ordering or position of the orders indicates who is the principal and who is the broker; the difference (or change) in the passive orders discloses who the principal and broker are—the only change is an indication or wording discloses a principal and a broker; changing the original presentation to indicate a principal and a broker, in the above mentioned ways.

9. Dependent claims 1-5, 7, 9-15 and 17-41 do not cure this deficiency and are therefore also rejected.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. Claims 8 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Silverman '583 and Silverman et al. (US 5,136,501 A) hereafter referred to as Silverman '501.

12. Claims 8 and 16 discuss a system and method for trading, comprising: trader; receiving a trading command from a first determining whether the first trader is acting as a broker; trader; and presenting the trading command to a second preventing the second trader from acting on the trading command when the first trader is acting as a broker so that the trading command does not form part of the trade and blocking the completion of the transaction. Silverman '583 discloses the information in Claims 3-5, 8 and 11-13. Additionally, Specifically Silverman '583 discloses: the use of a broker in column 1 (lines 20-26); the use of a principle workstation or trading booth in column 1 (lines 27-40); sending and receiving passive trading commands in figure 1; displaying passive trading commands using use tabs in column 4 (lines 11-42); and, displaying the first and second passive commands in a different manner in the Summary of the Invention in column 2 (lines 25-53).

13. Silverman '583 does not disclose the act of placing different limitations on principal and broker (i.e. preventing certain traders from acting on a trade). Silverman '501 teaches the art of preventing a trader from acting on a trade in the Abstract, column 3 (lines 18-38), column 4 (line 27) through column 5 (line 35) and column 17 (line 59) through column 18 (line 9). Therefore, it would have been obvious to a person

having ordinary skill in the art at the time the invention was made to modify Silverman '583 to gain the ability to block trade because, according to Silverman '501 in Disclosure of the Invention, to controllably mask the available trading market and efficiently transmit only the required matching information to those key stations which require it.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MURIEL TINKLER whose telephone number is (571)272-7976. The examiner can normally be reached on Monday through Friday from 8 AM until 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571)272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Muriel Tinkler/
Examiner, Art Unit 3691